

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-431-C - ORDER NO. 2001-1020
OCTOBER 17, 2001

IN RE: Application of Power-Finder West)	ORDER DENYING
Communications, LLC for a Certificate of)	REQUEST FOR
Public Convenience and Necessity to provide)	PROTECTIVE ORDER
Resold Interexchange Telecommunications)	CONCERNING
Services within the State of South Carolina;)	FINANCIAL RECORDS
and for Alternative Regulation.)	

This matter comes before the Public Service Commission of South Carolina (the Commission) by way of a Motion requesting a Protective Order to treat the financial statements of Power-Finder West Communications, LLC (Power-Finder or the Company) as confidential information and not to make the financial statements available as a public record. In its request, Power-Finder states that the Protective Order is necessary because the financial documents include proprietary and confidential information concerning the Company which is not subject to inspection by either the public or other parties unless an appropriate proprietary agreement is executed. Power-Finder further states as reasoning for the necessity of a Protective Order, that disclosure of such information could provide competitors with valuable insight into the financial structure of the Company and its financing activities.

In its Motion for Protective Order, the Company submits that its financial information is confidential pursuant to S.C. Code Ann. Section 39-8-60 (Supp. 2000). Section 39-8-60(A) reads, in part, as follows: "In an action under this chapter, a court

shall preserve the secrecy of an alleged trade secret by reasonable means...” We find that Power-Finder West’s financial statements are not trade secrets as defined in S.C. Code Ann. Section 39-8-20(5) (Supp. 2000). Additionally, we hold the review of the information contained in the Company’s financial statements is important for the examination of Power-Finder’s financial resources to provide telecommunications service to the public.

Moreover, public records are defined as official items of information within the files of the Commission which are available for inspection by the public. 26 S.C. Code Ann. Regs. 103-804(Y)(1)(Supp. 2000) Public records include financial, statistical, and other reports to the Commission in addition to any other filings and submittals to the Commission in compliance with the requirement of any statute, Commission order, rule or regulation. 26 S.C. Code Ann. Regs. 103-804 (Y)(1)(b)(Supp. 2000). S.C. Code Ann. Regs. 103-834(3)(Supp. 2000) states, in part, that in a general rate establishment case, a balance sheet and a profit and loss statement representing a historic twelve-month test period shall be included in applications submitted to the Commission. Further, “any person has a right to inspect or copy any public record of a public body...” S.C. Code Ann. §30-4-30 (1976). After reviewing the Company’s request and the aforementioned law, we find that Power-Finder’s request that its financial statements remain confidential and unavailable to the public as a public record should be denied.

IT IS THEREFORE ORDERED THAT:

1. Power-Finder’s request that its financial statements remain confidential and unavailable to the public is denied.

2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)